

Jeffrey A. Masoner
Vice President
Interconnection Policy and Planning
Wholesale Markets Group



2107 Wilson Boulevard
Arlington, VA 22201

Phone 703 974-4610
Fax 703 974-0314
jeffrey.a.masoner@verizon.com

November 9, 2001

Mr. David A. Miller
Vice President of Legal Affairs
VoiceStream Wireless Corporation
12920 S.E. 38th Street
Bellevue, WA 98006

Re: Requested Adoption Under Section 252(i) of the TA96

Dear Mr. Miller:

Verizon New England Inc., d/b/a Verizon Maine, f/k/a new England Telephone and Telegraph Company, d/b/a Bell Atlantic - Maine ("Verizon"), has received your letter stating that, under Section 252(i) of the Telecommunications Act of 1996 (the "Act"), VoiceStream Wireless Corporation ("VoiceStream") wishes to adopt the terms of the Interconnection Agreement between AT&T Wireless Services, Inc. ("AWS") and Verizon that was approved by the Maine Public Utilities Commission (the "Commission") as an effective agreement in the State of Maine, as such agreement exists on the date hereof after giving effect to operation of law (the "Terms"). I understand VoiceStream has a copy of the Terms. Please note the following with respect to VoiceStream's adoption of the Terms.

1. By VoiceStream's countersignature on this letter, VoiceStream hereby represents and agrees to the following three points:
 - (A) VoiceStream adopts (and agrees to be bound by) the Terms of the AWS/Verizon agreement for interconnection as it is in effect on the date hereof after giving effect to operation of law, and in applying the Terms, agrees that VoiceStream shall be substituted in place of AT&T Wireless Services, Inc. and AWS in the Terms wherever appropriate.

- (B) Notice to VoiceStream and Verizon as may be required under the Terms shall be provided as follows:

To: VoiceStream Wireless Corporation
Attention: David A. Miller, Vice President of Legal Affairs
12920 S.E. 38th Street
Bellevue, WA 98006
Telephone number: 425-378-4000
FAX number: 425-378-4840

With a copy to:

Ms. Chris Sykes
Senior Manager, Carrier Management Group
VoiceStream Wireless Corporation
12920 S.E. 38th Street
Bellevue, WA 98006
Telephone number: 425-378-4000
FAX number: 425-653-4810

To Verizon:

Director-Contract Performance & Administration
Verizon Wholesale Markets
600 Hidden Ridge
HQEWMNOTICES
Irving, TX 75038
Telephone Number: 972-718-5988
Facsimile Number: 972-719-1519
Internet Address: wmnotices@verizon.com

with a copy to:

Vice President and Associate General Counsel
Verizon Wholesale Markets
1515 N. Court House Road
Suite 500
Arlington, VA 22201
Facsimile: 703-351-3664

- (C) VoiceStream represents and warrants that it is a FCC-licensed provider of two-way wireless service in the State of Maine, and that its adoption of the Terms will cover services in the State of Maine only.
- (D) With respect to compensation for the exchange of traffic that is subject to Section 251(b)(5) of the Act, Verizon hereby offers to VoiceStream an optional reciprocal compensation rate plan, under which such Section

251(b)(5) traffic exchanged between Verizon and VoiceStream in Maine will be subject to compensation at the same rate applicable to any intercarrier compensation that may be due for Internet traffic in Maine under the terms of the *FCC Remand Order*. VoiceStream and Verizon agree to negotiate in good faith an amendment or supplement to this letter to include provisions governing the optional reciprocal compensation rate plan for traffic subject to Section 251(b)(5) of the Act. For the avoidance of doubt, the parties agree that such amendment would reflect that the rates applicable to the exchange of traffic subject to Section 251(b)(5) of the Act would be effective as of the effective date of this adoption.

2. VoiceStream's adoption of the AWS Terms shall become effective on November 23, 2001. Verizon shall file this adoption letter with the Commission promptly upon receipt of an original of this letter countersigned by an authorized officer of VoiceStream. The term and termination provisions of the AWS/Verizon agreement shall govern VoiceStream's adoption of the Terms. The VoiceStream/Verizon arbitrated agreement is currently scheduled to terminate on December 31, 2001.
3. As the Terms are being adopted by you pursuant to your statutory rights under section 252(i), Verizon does not provide the Terms to you as either a voluntary or negotiated agreement. The filing and performance by Verizon of the Terms does not in any way constitute a waiver by Verizon of any position as to the Terms or a portion thereof, nor does it constitute a waiver by Verizon of all rights and remedies it may have to seek review of the Terms, or to seek review in any way of any provisions included in these Terms as a result of VoiceStream's 252(i) election.
4. On January 25, 1999, the Supreme Court of the United States ("Court") issued its decision on the appeals of the Eighth Circuit's decision in *Iowa Utilities Board*. Specifically, the Supreme Court modified several of the FCC's and the Eighth Circuit's rulings regarding unbundled network elements and pricing requirements under the Act. *AT&T Corp. v. Iowa Utilities Board*, 119 S. Ct. 721 (1999). Certain provisions of the Terms may be void or unenforceable as a result of the Court's decision of January 25, 1999, the United States Eighth Circuit Court of Appeals' decision in Docket No. 96-3321 regarding the FCC's pricing rules, and the current appeal before the U.S. Supreme Court regarding the FCC's new UNE rules. Moreover, nothing herein shall be construed as or is intended to be a concession or admission by Verizon that any provision in the Terms complies with the rights and duties imposed by the Act, the decisions of the FCC and the Commissions, the decisions of the courts, or other law, and Verizon expressly reserves its full right to assert and pursue claims arising from or related to the Terms.
5. Verizon reserves the right to deny VoiceStream's adoption and/or application of the Terms, in whole or in part, at any time:

- (a) when the costs of providing the Terms to VoiceStream are greater than the costs of providing them to AWS;
 - (b) if the provision of the Terms to VoiceStream is not technically feasible; and/or
 - (c) to the extent that Verizon otherwise is not required to make the Terms available to VoiceStream under applicable law.
6. For avoidance of doubt, please note that adoption of the Terms will not result in reciprocal compensation payments for Internet traffic. Verizon has always taken the position that reciprocal compensation was not due to be paid for Internet traffic under section 251(b)(5) of the Act. Verizon's position that reciprocal compensation is not to be paid for Internet traffic was confirmed by the FCC in the Order on Remand and Report and Order adopted on April 18, 2001 ("*FCC Internet Order*"), which held that Internet traffic constitutes "information access" outside the scope of the reciprocal compensation obligations set forth in section 251(b)(5) of the Act.¹ Accordingly, any compensation to be paid for Internet traffic will be handled pursuant to the terms of the *FCC Internet Order*, not pursuant to adoption of the Terms.² Moreover, in light of the *FCC Internet Order*, even if the Terms include provisions invoking an intercarrier compensation mechanism for Internet traffic, any reasonable amount of time permitted for adopting such provisions has expired under the FCC's rules implementing section 252(i) of the Act.³ In fact, the *FCC Internet Order* made clear that carriers may not adopt provisions of an existing interconnection agreement to the extent that such provisions provide compensation for Internet traffic.⁴
7. Should VoiceStream attempt to apply the Terms in a manner that conflicts with paragraphs 3-6 above, Verizon reserves its rights to seek appropriate legal and/or equitable relief.
8. In the event that a voluntary or involuntary petition has been or is in the future filed against VoiceStream under bankruptcy or insolvency laws, or any law relating to the relief of debtors, readjustment of indebtedness, debtor reorganization or composition or extension of debt (any such proceeding, an "Insolvency Proceeding"), then: (i) all rights of Verizon under such laws, including, without limitation, all rights of Verizon under 11 U.S.C. § 366, shall be preserved, and VoiceStream's adoption of the Verizon Terms shall in no way impair such rights of Verizon; and (ii) all rights of VoiceStream resulting from VoiceStream's adoption of the Verizon terms shall be subject to and modified by

¹ Order on Remand and Report and Order, In the Matters of: Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 and Intercarrier Compensation for ISP-Bound Traffic, CC Docket No. 99-68 (rel. April 27, 2001) ¶44.

² For your convenience, an industry letter distributed by Verizon explaining its plans to implement the *FCC Internet Order* can be viewed at Verizon's Customer Support Website at URL www.verizon.com/wise (select Verizon East Customer Support, Resources, Industry Letters, CLEC).

³ See, e.g., 47 C.F.R. Section 51.809(c).

⁴ *FCC Internet Order* ¶ 82.

any Stipulations and Orders entered in the Insolvency Proceeding, including, without limitation, any Stipulation or Order providing adequate assurance of payment to Verizon pursuant to 11 U.S.C. § 366.

Please arrange for a duly authorized representative of VoiceStream to sign this letter in the space provided below and return it to the undersigned.

Sincerely,

VERIZON NEW ENGLAND INC.,
D/B/A VERIZON MAINE

Jeffrey A. Masoner
Vice President – Interconnection Services Policy & Planning

Reviewed and countersigned as to points A, B, C and D of paragraph 1:

VOICESTREAM WIRELESS CORPORATION

(SIGNATURE)

(PRINT NAME)

c: R. Ragsdale – Verizon

Agreement